

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation

#### Notice of Incidents Involving Release of E&P Waste or Possible Environmental Contaminants

The Department of Natural Resources, Office of Conservation, in accordance with R.S. 30:4 et seq. and the Administrative Procedures Act, R.S. 49:950 et seq., hereby proposes to adopt LAC 43:XIX, Subpart 20, Chapter 47, Environmental Contamination Notice. These rules concern notice of incidents involving release of E&P waste or possible environmental contaminants.

#### Purpose

The purpose of these regulations is to provide better public awareness of incidents involving environmental contamination that may pose an immediate and/or ongoing health or safety risk which are subject to the jurisdiction of the Office of Conservation, to set requirements for notice of such incidents and to establish a process that assures that other agencies are notified of any incident of environmental contamination known to pose an immediate and/or ongoing health or safety risk that is discovered by or made known to the Office of Conservation whether or not such incident or contamination is within the jurisdiction of such office.

#### Applicability

These rules shall be applicable to all operations which are subject to the jurisdiction of the Office of Conservation. The rules shall apply to any incident involving the release of Exploration & Production Waste or any environmental contaminant that is suspected to pose an immediate and/or ongoing threat to any person not involved in responding to such incident and any other incident determined by the Commissioner to warrant notice.

Examples would include, but are not limited to:

1. Pipeline ruptures or explosions;
2. Blow-outs where the offending well is flowing uncontrolled to the atmosphere and/or underground source of drinking water (USDW) and/or surface water;
3. Sites where assessment and/or remediation have established contamination above levels dictated by Office of Conservation regulations and the atmosphere and/or a USDW and/or surface water have or may have been impacted; and
4. Any escape of an injected substance from the permitted injection zone to the atmosphere and/or a USDW and/or surface water.

The provisions of these rules shall not apply to:

1. Areas of environmental contamination where there is no known public threat; the contamination is contained both horizontally and vertically solely within the property of the operator; and containment/remediation efforts have begun and are ongoing;
2. Releases defined by applicable statutes, rules, or regulations as not being reportable; and
3. Releases or discharges that occur pursuant to a permit from a state or federal agency.

## Title 43

### NATURAL RESOURCES

#### Part XIX. Office of Conservation--General Operations

##### Subpart 20. Environmental Contamination Notice

##### Chapter 47. Release of E&P Waste

##### §4701. General

A. In the event an operator subject to the jurisdiction of the Office of Conservation has an incident involving a release of E&P Waste that may pose an immediate public health risk, or has reasonable cause to believe that there is the presence of an environmental contaminant outside of containment which exceeds applicable federal and/or state health, or safety standards, poses a risk of adverse health effects and is within the area of their operations, whether or not the contamination is caused by these operations, manmade, or natural conditions, such operator shall give notice to the public and appropriate agencies as provided herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 28: (2002).

##### §4703. Notice Requirements

A. Notice shall be given to the public by the most efficient and expeditious means and may include, but is not limited to, the following:

1. posting of signs in the area where they can be readily seen by any affected, or potentially affected, member of the public;
2. publication of notice in the official parish journal in each parish where the contamination is located, or may be located;
3. issuing a press release to each newspaper, television, and radio station in each parish where the contamination is located, or may be located;
4. mailing of certified letters to each property owner and resident within the area where contamination is located, or may be located;
5. personal visits to each property owner or resident within the area where contamination is located, or may be located;
6. any combination of the above, or other such notice as will reasonably provide notice to such persons who are, or may be, affected by such contamination.

B. The notice required herein shall contain:

1. a description of the area which may be affected by the contamination;
2. a list or description of the contaminants which are known or reasonably suspected to be present; and
3. information regarding any potential adverse health effects posed by the contamination.

C. Notice shall be given immediately by the most expedient means and also in writing, via certified mail, to

1. the Louisiana Department of Health and Hospitals;
2. the Louisiana Department of Environmental Quality;
3. the Louisiana Department of Agriculture and Forestry;
4. the Louisiana Department of Wildlife and Fisheries;
5. the Louisiana State Police;
6. the Louisiana Office of Conservation;
7. the Louisiana Department of Natural Resources;

and

8. the local governing authorities (examples: sheriff, police jury, parish council, etc.).

D. The applicable federal and/or state health and safety standards may be obtained by contacting the Louisiana Department of Health and Hospitals, the Louisiana Department of Environmental Quality, the Louisiana Department of Transportation and Development, the U.S. Environmental Protection Agency, or other appropriate federal and state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 28: (2002).

#### **§4705. Exceptions and Penalties**

A. It is recognized that prudent operations conducted as a result of an incident that is subject to this rule might bring the situation under control, eliminating the public health or safety threat before the assessment of affected area and type notice is complete. Under such circumstances, public notice shall not be required so long as:

1. there was no intentional delay in such assessment in an effort to reach that conclusion;

2. notice was provided to the Commissioner of Conservation; and

3. the Commissioner waives further notice.

B. The giving of notice as provided herein shall be in addition to any other notice required by state, federal or local law.

C. The operator shall provide the Office of Conservation with a detailed description of the efforts to give notice at the time such notice is given pursuant to this rule, and shall maintain records of the method or methods utilized in giving the required notice for a period of 10 years after the last notice has been given.

D. If the Commissioner of Conservation determines an incident requiring notice exists for which there is no responsible operator, the Office of Conservation shall initiate notice as required by this rule.

E. Any operator who fails to give notice as provided herein shall be responsible for all cost incurred by the Office of Conservation and may be liable for civil penalty as set forth in LSA-R.S. 30:18 and other appropriate regulatory provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 28: (2002).

#### **§4707. Liability**

A. The giving of notice as provided herein shall not constitute an admission of responsibility or liability by the Office of Conservation or the reporting operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 28: (2002).

#### **Family Impact Statement**

In accordance with LSA-RS 49:972, the following statements are submitted after consideration of the impact of the proposed rule on family as defined therein.

1. The proposed rules will have no effect on the stability of the family.

2. The proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed rules will have no effect on the functioning of the family.

4. The proposed rules will have no effect on family earnings and family budget.

5. The proposed rules will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed rules.

Comments and views regarding the proposed rule will be accepted until 4:30 p.m., Wednesday, October 2, 2002.

Comments should be directed, in writing, to: Office of Conservation, Engineering Division - 9<sup>th</sup> Floor, Post Office Box 94275, Baton Rouge, LA 70804-9275 Re: Docket No. 02-480, or by facsimile to (225) 342-3705.

A public hearing will be held at 9:00 a.m., Thursday, September 26, 2002 in the auditorium, located on the First Floor, LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

James H. Welsh

Commissioner of Conservation